BURSOR FISHER

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February 15, 2022

Via Fed Ex and Certified Mail - Return Receipt Requested

E25Bio Inc. 501 Massachusetts Avenue Cambridge, MA 01239

Re: Demand Letter Pursuant to U.C.C. §§ 2-313, 2-314; Massachusetts Unfair and Deceptive Business Practices Act, Mass. Gen. Laws Ch. 93A, § 9(3); and all other applicable laws

To Whom It May Concern:

This letter serves as a preliminary notice and demand for corrective action by E25Bio Inc. ("You" or "E25Bio") pursuant to numerous provisions of New York and Massachusetts law—including but not limited to the Massachusetts Unfair and Deceptive Business Practices Act, Mass. Gen. Laws Ch. 93A, § 1, et seq., and U.C.C. § 2-607(3)(A)—concerning the breaches of express warranty and fraudulent and deceptive practices described herein on behalf of our client, Pedro Urena, and all other similarly situated purchasers.

You have participated in the marketing and sale of E25Bio COVID-19 Direct Antigen Rapid Tests, also known as E25Bio SARS-CoV-2 Antigen Test Kits (the "Covid Tests"). You have specifically represented the Covid Tests are "[r]apid test[s] for the detection of Coronavirus CoV Spike and nucleoprotein antigen," and have "better accuracy than 'gold standard' PCR without the need for equipment and at a fraction of the cost and time." You have also represented that the Covid Tests are authorized, cleared, and approved by the FDA for distribution and use in the United States (and thus legally sold). However, the FDA has specifically stated the Covid Tests have "not been authorized, cleared, or approved by the FDA for distribution or use in the United States, and it may include false labeling representing that the test is authorized by the FDA." Further, the FDA has expressed concern "about the risk of false results when using this test because E25Bio has not provided the FDA with adequate data demonstrating that the test's performance is accurate." Thus, Your representations and omissions are false and misleading because the Covid Tests are inaccurate and are not authorized, cleared, or approved by the FDA for distribution or use in the United States (and thus illegally sold). The Covid Tests are worthless because no reasonable consumer would purchase COVID-19 tests that are not accurate and illegally sold.

¹ https://www.fda.gov/medical-devices/safety-communications/do-not-use-e25bio-covid-19-tests-fda-safety-communication.

Our client, Mr. Urena, purchased the Covid Test in or about January 2022 in New York for approximately \$25 based on Your representations and omissions. Mr. Urena would not have purchased the Covid Test, or would have paid significantly less for it, had he known the Covid Test was inaccurate and was not authorized, cleared, or approved by the FDA for distribution or use in the United States (and thus illegally sold). Mr. Urena received a positive result from the Covid Test, after which he went to a clinic and received a negative result. Mr. Urena therefore received a "false positive" from Your Covid Test.

Based on the foregoing, You violated the Massachusetts Unfair and Deceptive Business Practices Act, Mass. Gen. Laws Ch. 93A, § 1, et seq., and all other relevant state and local laws, and breached Your express warranties, by (1) representing that the Covid Tests were accurate and were authorized, cleared, and approved by the FDA for distribution and use in the United States (and thus legally sold); and (2) failing to disclose that the Covid Tests were not accurate and were not authorized, cleared, or approved by the FDA for distribution or use in the United States (and thus illegally sold). As a result of Your violation of Mass. Gen. Laws Ch. 93A, § 1, et seq., and all other relevant state and local laws, and Your breach of express warranties, Mr. Urena sustained injury.

Mr. Urena is acting on behalf of a Class defined as all persons in the United States who purchased the Covid Tests. Mr. Urena is also acting on behalf of a Subclass of persons who purchased the Covid Test in the State of New York.

On behalf of our client and the Class, we hereby demand that You immediately (1) cease and desist from selling the inaccurate and unlawfully sold Covid Tests, and (2) make full restitution to all purchasers of the Covid Tests.

We further demand that you preserve all documents and other evidence which refer or relate to any of the above-described practices including, but not limited to, the following:

- 1. All documents concerning the design, development, and/or testing of the Covid Tests;
- 2. All documents concerning the advertisement, labeling, marketing, or sale of the Covid Tests;
- 3. All documents concerning communications with purchasers of the Covid Tests, including but not limited to customer complaints;
- 4. All documents concerning your total revenue derived from sales of the Covid Tests in New York and the United States; and
- 5. All communications with the FDA and other regulatory agencies about the Covid Tests.

If you contend that any statement in this letter is inaccurate in any respect, please provide us with your contentions and supporting documents immediately upon receipt of this letter.

Please contact me right away if you wish to discuss an appropriate way to remedy this matter. If I do not hear from you promptly, I will take that as an indication that you are not interested in doing so.

Very truly yours,

Joshua D. Arisohn